

Exhibit 20

1 UNITED STATES DISTRICT COURT

2 FOR THE WESTERN DISTRICT OF NEW YORK

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4 **BLACK LOVE RESISTS IN THE RUST, et al.,**
5 **individually and on behalf of a class of**
6 **all others similarly situated,**

7 Plaintiffs,

8 -vs-

1:18-cv-00719-CCR

9 **CITY OF BUFFALO, N.Y., et al.,**

10 Defendants.
11 -----

12 **EXAMINATION BEFORE TRIAL OF HAROLD MCLELLAN**

13 **APPEARING REMOTELY FROM**

14 **NIAGARA COUNTY, NEW YORK**

15
16 September 8, 2023

17 10:15 a.m. - 1:00 p.m. & 2:32 p.m. - 3:31 p.m.

18 pursuant to notice
19
20

21 REPORTED BY:

22 Carrie A. Fisher, Notary Public

23 APPEARING REMOTELY FROM ERIE COUNTY, NEW YORK

DEPAOLO CROSBY REPORTING SERVICES, INC.

135 Delaware Avenue, Suite 301, Buffalo, New York 14202
716-853-5544

~~HOWARD MCLELLAN~~

1 know, whatever practices or policies are in
2 place for this -- for these complaints, it has
3 to work, has to be -- they have to be
4 competent.

5 Q. And should all misconduct be met with some
6 form of discipline?

7 MR. SAHASRABUDHE: Objection to form.

8 A. So when you say "discipline," you're -- and I
9 don't want to put words in your mouth but
10 you're probably thinking more like a negative
11 discipline, but there's also discipline which
12 is not negative. I mean, there could be
13 training so, yeah. So not necessarily
14 every -- not necessarily every complaint would
15 have to be resolved with negative discipline.

16 Q. Okay. And so by "training," you mean positive
17 discipline?

18 A. Yes.

19 Q. Okay. What else would be considered positive
20 discipline?

21 A. A conference with a higher level command
22 officer which is also considered I guess
23 training.

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~~HOWARD MCLELLAN~~

1 know, numbers so that would help.

2 Q. Okay. And what is IAPro?

3 A. It's a computer program that's used by a lot
4 of I guess larger city police agencies which
5 monitors discipline on officers within the
6 department, monitors their disciplinary
7 records.

8 Q. And does that --

9 A. Sends out alerts and stuff if it, you know,
10 generates certain things.

11 Q. When does IAPro send out alerts?

12 A. There was -- you could set it for anything,
13 and I don't remember exactly what it was at
14 the time. I will give you an example but I'm
15 not sure if this is accurate, but you could
16 set it for more than one use of force
17 complaint within a 12-month period or, you
18 know, you could set it for pretty much
19 anything you wanted to and I don't recall what
20 it was set at or what it would be set at now,
21 if they still use it.

22 Q. Okay. And by saying patterns of misconduct,
23 could you also set it to flag racial

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~~HOWARD MCLELLAN~~

1 including refresher training for your job as
2 an inspector?

3 A. No.

4 Q. Okay. So I'm going to pull up -- you
5 mentioned that you had taken some courses when
6 we talked about your education. What were
7 those courses?

8 A. Within the department or outside the
9 department?

10 Q. Within the department. Either.

11 A. Okay. Well, I already told you that I had
12 four years of college. And then within the
13 department, I mean, oh my God, over 33 years
14 there were -- I couldn't tell you all the
15 different in-service trainings that I was --
16 that I attended. I mean, there were a lot.

17 Q. Okay. And were you -- do you recall whether
18 any of the trainings were on racial
19 discrimination?

20 A. I don't recall. I don't recall.

21 Q. Do you recall receiving any trainings on
22 investigating racial discrimination
23 complaints?

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~~HOWARD MCLELLAN~~

1 A. Specific training on that, I don't believe. I
2 mean, you know, we had Internal Affairs
3 training. You know, I can't remember what the
4 training was exactly, but I'm thinking it
5 probably included something regarding racial
6 discrimination or racial profiling, that kind
7 of thing.

8 Q. Okay. When did that training occur?

9 A. When I went to the training, it was probably
10 shortly after I was assigned up there as a
11 captain.

12 Q. So that would have been before 2010, around
13 2008?

14 A. You're right, yes.

15 Q. Okay. And after that you never received any
16 training on racial discrimination?

17 A. Personally myself, I did not, no.

18 Q. Okay. I'm now going to turn back to McLellan
19 2 which is the Complaint Investigation Manual.
20 Can you see this?

21 A. Yes.

22 Q. Okay. And if you look at the second
23 paragraph, it says, "PSD members need to keep

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1 STATE OF NEW YORK)

2 COUNTY OF ERIE)

3
4 I, Carrie A. Fisher, Notary Public, in and
5 for the County of Erie, State of New York, do
6 hereby certify:

7 That the witness whose testimony appears
8 hereinbefore was, before the commencement of
9 their testimony, duly sworn to testify the
10 truth, the whole truth and nothing but the
11 truth; that said testimony was taken remotely
12 pursuant to notice at the time and place as
13 herein set forth; that said testimony was
14 taken down by me and thereafter transcribed
15 into typewriting, and I hereby certify the
16 foregoing testimony is a full, true and
17 correct transcription of my shorthand notes so
18 taken.

19 I further certify that I am neither counsel
20 for nor related to any party to said action,
21 nor in anyway interested in the outcome
22 thereof.

23 IN WITNESS WHEREOF, I have hereunto
subscribed my name and affixed my seal this
26th day of September, 2023.



Carrie A. Fisher
Notary Public - State of New York
No. 01FI6240227
Qualified in Erie County
My commission expires 5/02/27

DEPAOLO CROSBY REPORTING SERVICES, INC.

135 Delaware Avenue, Suite 301, Buffalo, New York 14202
716-853-5544

1 UNITED STATES DISTRICT COURT

2 WESTERN DISTRICT OF NEW YORK

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4 **BLACK LOVE RESISTS IN THE RUST, ET AL.,**
5 **INDIVIDUALLY AND ON BEHALF OF A CLASS OF**
6 **ALL OTHERS SIMILARLY SITUATED,**

7 Plaintiffs,

8 -vs-

1:18-cv-00719-CCR

9 **CITY OF BUFFALO, N.Y., ET AL.,**

10 Defendants.
11 -----

12 **CONTINUED EXAMINATION BEFORE TRIAL**

13 **OF HAROLD MCLELLAN**

14 **APPEARING REMOTELY FROM**

15 **BUFFALO, NEW YORK**

16
17 September 11, 2023

18 At 9:00 a.m.

19 Pursuant to notice

20
21 REPORTED BY:

22 Rebecca L. DiBello, RPR, CSR(NY)

23 APPEARING REMOTELY FROM ERIE COUNTY, NEW YORK

DEPAOLO CROSBY REPORTING SERVICES, INC.

135 Delaware Avenue, Suite 301, Buffalo, New York 14202
716-853-5544

1 A. Yes.

2 Q. Okay. So at his deposition last week Officer
3 Acquino testified that he had never received
4 any monitoring, training, retraining or
5 disciplinary action for any of the complaints
6 lodged against him. Does this concern you?

7 MR. SAHASRABUDHE: Objection to form.

8 A. I'm just thinking of -- did we see on his
9 disciplinary card that he did receive that?
10 Deputy police commissioners? Or my mistake?

11 Q. I'll pull that up again. We did, but he did
12 not recall that.

13 A. Okay. Then I mean, he was incorrect that he
14 did receive that?

15 Q. So is Mr. Acquino's statement consistent with
16 your recollection?

17 MR. SAHASRABUDHE: Objection to form.

18 A. I don't recall, but I'm going by the way you
19 showed me on his disciplinary card that he did
20 receive at least a conference I believe.

21 Q. Is a conference considered formal discipline?

22 MR. SAHASRABUDHE: Objection to form.

23 A. Well, it's a form of discipline. I was always

1 told it was considered training.

2 Q. Training?

3 A. Well, that's how that's always been referred
4 to me as training and that's how I have always
5 referred to it.

6 Q. But a conference is not a formal disciplinary
7 charge that goes on his record; is that right?

8 MR. SAHASRABUDHE: Form.

9 A. Okay. So you are -- you're mentioning
10 something different. You're mentioning a
11 departmental charge rather than a conference.
12 Conference is still discipline, but it's not a
13 charge, departmental charge.

14 Q. Okay.

15 A. Remember we talked about positive and negative
16 discipline?

17 Q. Right. So would there be any consequences for
18 an officer receiving a conference?

19 MR. SAHASRABUDHE: Form.

20 A. Consequence of -- the conference is the
21 consequence of the complaint, but there's not
22 a consequence of the conference if that -- I
23 don't know if that's what you asked.

1 STATE OF NEW YORK)

2 COUNTY OF ERIE)

3
4 I, Rebecca Lynne DiBello, CSR, RPR, Notary
5 Public, in and for the County of Erie, State of
6 New York, do hereby certify:

7 That the witness whose testimony appears
8 hereinbefore was, before the commencement of
9 their testimony, duly sworn to testify the
10 truth, the whole truth and nothing but the
11 truth; that said testimony was taken pursuant
12 to notice at the time and place as herein set
forth; that said testimony was taken down by me
and thereafter transcribed into typewriting,
and I hereby certify the foregoing testimony is
a full, true and correct transcription of my
shorthand notes so taken.

13 I further certify that I am neither counsel
14 for nor related to any party to said action,
15 nor in anyway interested in the outcome
thereof.

16 IN WITNESS WHEREOF, I have hereunto
17 subscribed my name and affixed my seal this
18 25th day of September, 2023.

19 

20 -----
21 Rebecca Lynne DiBello, CSR, RPR
22 Notary Public - State of New York
23 No. 01D14897420
Qualified in Erie County
My commission expires 5/11/2027

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